

**BEFORE THE MINNESOTA
BOARD OF PHYSICAL THERAPY**

In the Matter of
the Registration of
Carol Gilligan, P.T.
Date of Birth: 7/28/59
License Number: 4,069

**STIPULATION
AND ORDER**

IT IS HEREBY STIPULATED AND AGREED, by and between Carol Gilligan, P.T. ("Respondent"), and the Complaint Review Committee of the Minnesota Board of Physical Therapy ("Board") as follows:

1. During all times herein, Respondent has been and now is subject to the jurisdiction of the Board with whom she is licensed to practice physical therapy in the State of Minnesota.

FACTS

2. For the purpose of this stipulation, the Board may consider the following facts as true:

a. Respondent is a licensed physical therapist who provides physical therapy services to patients through her business, Little Hands Little Feet ("LHLF"). LHLF is a limited liability company owned by Respondent, another physical therapist and an occupational therapist. LHLF renders physical therapy, occupational therapy and speech therapy services to pediatric patients from ages birth to twenty-one years. LHLF treats children with conditions such as cerebral palsy, spina bifida and functional delays. LHLF renders services at various locations, including the partners' homes/offices, the patient's home, day care or school or in an outpatient clinic setting.

b. Between 1993 and 1994, LHLF was licensed by the Minnesota Department of Health ("MDH") as a home care provider. In 1994, LHLF let its home care license expire but continued to provide home care services to patients.

c. By letter dated September 1, 1994, MDH informed LHLF that its home care license expired on August 31, 1994, and therefore LHLF could no longer provide home care services to clients effective September 1, 1994. MDH advised LHLF that if it was still a home care provider, it should discontinue those services. It was further noted that a person involved in the management, operation or control of a home care provider who operated without a license was guilty of a misdemeanor.

d. From September 1, 1994, until March 3, 1997, Respondent, through LHLF, continued to provide home care physical therapy services to patients without being licensed to do so, in violation of Minn. Stat. § 144A.46. Effective March 3, 1997, LHLF was licensed with the Minnesota Department of Health, has paid all applicable fees and remains licensed to date.

e. During this time period, Respondent, through LHLF, consistently submitted claims to patients' insurance companies which incorrectly identified the place of service. Even though many services were provided in the patients' homes, LHLF instructed its billing service to submit all claims using the outpatient physical therapy code.

f. With respect to patient #1, LHLF submitted claims to Medica which identified the place of service as "comprehensive outpatient rehabilitation facility," even though all services had been provided in the patient's home. Medica had earlier refused to approve further home physical therapy services for patient #1 through another agency. Medica paid for the LHLF claims, however, believing that services had been performed in an outpatient setting.

g. Respondent told patient #1's parents that LHLF would provide in-home physical therapy services to patient #1 but that it would bill its services to Medica as "outpatient." Respondent instructed patient #1's parents to tell anyone who inquired that the services were provided in a clinic setting.

h. By letter dated August 7, 1996, MDH informed LHLF that it had received information indicating that LHLF may be doing business as a provider of home care services in Minnesota. In the letter, MDH asked LHLF to provide proof of licensure or to explain why LHLF believed it was exempt from licensure. After receiving no response, a second letter was sent to another LHLF address in September 1996.

i. In response to the second letter, Respondent called MDH and admitted that LHLF had indeed continued to render home care services after August 31, 1994, but believed that LHLF was exempt from the licensure requirements pursuant to Minn. Stat. § 144A.46, subd. 2(4), which states, in part:

The following individuals or organizations are exempt from the requirement to obtain a home care provider license . . . a person who is registered under sections 148.65 to 148.78 and who independently provides physical therapy services in the home without any contractual or employment relationship to a home care provider or other organization.

j. MDH informed LHLF that it was required to be licensed as a home care provider and sent LHLF an application for licensure in the fall of 1996.

k. Respondent acknowledged that LHLF's Home Care Bill of Rights does not comply with Minn. R. 4668.030, subps. 4.A. and 6, which require a written statement informing patients who may be dissatisfied with home care services that they may complain to the Office of Health Facility Complaints and that the licensee shall document compliance with this rule in the patient's chart. LHLF's current Health Care Bill of Rights includes a written statement informing patients that they may complain to the Office of Health Facility Complaints and that LHLF documents compliance with this rule in the patient's chart.

l. With regard to patient #1, Respondent violated the community standards for physical therapists which are set out in the Standards of Practice for Physical Therapy, the Guide for Professional Conduct and Minnesota Statutes sections 148.65 to 148.78. The violations are as follows:

1) In January 1995, Respondent told patient #1's mother, "Her cord must be tethered again." At the next physical therapy appointment, Respondent was asked by patient #1's mother how things looked, and Respondent stated, "Not good, I'll call you tonight." Respondent never called her that night. Respondent gave patient #1's mother a bottle of champagne with a note attached stating something to the effect of, "You'll probably be needing this." A subsequent MRI revealed no indication of a tethered cord. Respondent denied the allegation when interviewed and stated that she told patient #1's mother that "it could be" or "it might be" a tethered cord.

2) Respondent was served with a subpoena ordering complete physical therapy records for patient #1. The records provided were not complete, and Respondent admitted that the records were not complete. Respondent admitted she does not retain patient medical records for seven years, as required by law. Respondent admitted she discarded patient #1's records when Respondent moved. Respondent also admitted to erasing patient records, which she had on a computer disk, but she was able to reconstruct those records.

3) Respondent engaged in conduct with patient #1 unbecoming a registered physical therapist as follows:

(a) Patient #1 and her parents stated that Respondent disclosed information about other patients to them. Respondent would tell patient #1 who had what surgery; whose hip was out; who had a tethered cord; who had doctor appointments; who cried and who did not cooperate.

(b) Both patient #1's mother and her treating physician stated that Respondent ingratiated herself in the patients' families by socializing, exchanging presents with them and baby-sitting for them on one occasion. Respondent admitted she gives gifts to all of her patients. Respondent stated patient #1 was her patient but was "also my friend."

(c) Patient #1 and her mother stated that Respondent disclosed details of her personal life, for example, how her boyfriend cheated on her. Patient #1 felt that her therapy sessions were affected by knowing personal information about Respondent.

Respondent admitted to the investigator that she did share the details of her personal life with the patients.

(d) Patient #1 stated that approximately 50 to 60 times during the period Respondent treated her, Respondent made comments about patient #1's being fat. Patient #1's mother heard some of these comments. Respondent would also tell patient #1 that she had acne. Respondent denies making these statements.

(e) Patient #1 stated that Respondent often told her to do just one more repetition of an exercise and then she could be done. Patient #1 would perform the last repetition, but Respondent would make her do it again. Patient #1 stated that this was very hard on her.

(f) Patient #1 stated that Respondent and her boyfriend once took patient #1 inner tubing. Respondent steered the boat toward the biggest wave despite patient #1's stating she was afraid of wakes. Patient #1 found this very distressing.

(g) Patient #1 stated that once Respondent had her roll up her shirt and take off her pants and walk in her underwear. Patient #1 stated this humiliated her.

(h) Patient #1 stated that Respondent would make her feel guilty when she complained that exercising was painful. Respondent would say, "You'll be a cripple" or tell patient #1 that if she did not cooperate with physical therapy she would always need crutches.

(i) Patient #1 said that at Christmas time Respondent kissed her and she felt it was inappropriate. Respondent admitted she kissed patient #1 and other patients.

(j) Patient #1 said that Respondent's mother sent books to patient #1 as a Christmas present. Respondent admitted that her mother sent the books. Respondent stated that her mother probably knows the first names of each of her patients and that some of her patients have met her parents.

(k) Patient #1 stated that Respondent never discussed treatment goals with her.

(l) Patient #1 terminated her care with Respondent after eight years.

m. Patient #2 is an eight year old with spina bifida, who started receiving physical therapy treatments when he was three years old. With regard to patient #2, Respondent violated the community standards for physical therapists, which are set out in the Standards of Practice for Physical Therapy, the Guide for Professional Conduct and Minnesota Statutes sections 148.65 to 148.78. The violations are as follows:

1) Patient #2's mother stated it seemed that every time patient #2 started to do well his leg would become swollen after physical therapy treatment with Respondent. This happened three to six times during the period Respondent was his therapist. This did not happen again after Respondent was terminated.

2) Patient #2 sustained a broken ankle, and neither patient #2's mother or father knew how it happened. Patient #2's mother first noticed the problem one evening after Respondent had provided treatment to patient #2. X-rays revealed a badly broken ankle. Respondent was questioned as to whether treatment was related to the fracturing.

3) In March 1993, Respondent diagnosed patient #2 by telling his mother, "I think he has a tethered cord again." In Respondent's March 8, 1993, record it states, "Assessment: [Patient #2] demonstrates all symptoms of a tethered spinal cord. He is to see his neurosurgeon" A record from Shriner's Hospital dated April 11, 1994, states, "[Patient #2's mother] called stating therapist thinks [patient #2] has a tethered cord." A note dated December 1994 states in part, "The changes noted are consistent with symptoms of a tethered spinal cord. [Patient #2] will see [redacted] orthopedics for a consult next month."

4) Respondent rendered a diagnosis and disclosed confidential information about other patients when she told patient #2's mother about another patient's

condition with regard to a tethered cord. Respondent stated, "I tried to tell them but they wouldn't listen."

5) Respondent was served with a subpoena ordering the production of complete physical therapy records for patient #2. The records were provided but were missing the progress notes. Respondent admitted the records were not complete.

6) Patient #2's mother stated that Respondent disclosed details of her personal life, including how her boyfriend cheated on her.

7) Patient #2's mother stated that Respondent said things to patient #2 to the effect of, "Take five steps and we'll be done." Patient #2 would do that and instead of being done Respondent would say, "Now do seven steps."

8) Patient #2's mother stated that Respondent promised patient #2 she would do things for him if he would exercise, but Respondent did not always follow through on these promises.

9) Patient #2's mother stated that Respondent made the patient feel guilty by making comments to the effect of, "Okay, you'll never walk without crutches."

10) Patient #2's mother stated that Respondent made patient #2 walk without crutches, and he would fall. Respondent would say things such as, "You weren't trying. Get up and try again." Patient #2 got to the point where he would cry whenever Respondent wanted him to walk without crutches.

11) Respondent would often disclose confidential information about other patients to patient #2 and his family. Patient #2's mother was uncomfortable with this because many of the patients' parents were members of a spina bifida association and would see one another.

STATUTES

3. Respondent does not agree with all of the factual allegations stated above, but in the interest of settling this matter and avoiding the necessity for further proceedings, agrees that the Board may consider these facts as true for the purposes of forming a factual basis for finding

violations of Minn. Stat. § 148.75 (a) (5) and (12) and 144A.46, subd. 1(a) (1998); and Minn. R. 4668.0003, subps. 1, 4, 5, and 6; and 5601.1300 (1997); for determining and monitoring the Respondent's compliance with the remedy for such violations as further stated in this Stipulation; and for fulfilling any reporting requirements of or by the Minnesota Board of Physical Therapy.

REMEDY

4. Upon this stipulation and all of the files, records, and proceedings herein, and without any further notice or hearing herein, Respondent does hereby consent that until further order of the Board, made after notice and hearing upon application by Respondent or upon the Board's own motion, the Board may make and enter an order conditioning and restricting Respondent's registration to practice physical therapy in the State of Minnesota as follows:

- a. Respondent is hereby REPRIMANDED for the conduct referenced above.
- b. Respondent shall submit to and cooperate with random quarterly practice reviews to be performed by the Quality Improvement and Judicial Committees of the American Physical Therapy Association ("APTA"). Each review shall include a chart audit and work quality assessment. Respondent shall be responsible for ensuring the Board receives quarterly reports from APTA regarding the findings of each review performed.
- c. Respondent shall successfully complete a guidelines review course which shall specifically cover the treatment of pediatric patients. The course must be approved in advance by the Complaint Review Committee or its designee.
- d. Within six months of the date of this Order, Respondent shall successfully complete the following courses:
 - 1) A medical records management course; and
 - 2) A boundaries course.
- e. Within three months of the date of this order, Respondent shall submit to the Complaint Review Committee or its designee for approval a copy of the billing protocol she intends to use in her physical therapy practice.

f. Respondent shall pay to the Board a civil penalty of \$2,000.

g. Respondent may petition for unconditional registration no sooner than one year from the date of this Order. Upon hearing the petition, the Board may continue, modify, or remove the conditions set out herein.

5. Within ten days of the date of this Order, Respondent shall provide the Board with a list of all hospitals, facilities or employment or contracting agencies for which Respondent currently performs physical therapy services and a list of all states in which Respondent is registered or has applied for registration or licensure. The information shall be sent to Jeanne Hoffman, Minnesota Board of Physical Therapy, University Park Plaza, 2829 University Avenue S.E., Suite 400, Minneapolis, Minnesota 55414-3246.

6. If Respondent shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions herein, the Committee shall schedule a hearing before the Board. The Committee shall mail Respondent a notice of the violation alleged by the Committee and of the time and place of the hearing. Respondent shall submit a response to the allegations at least three days prior to the hearing. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

At the hearing before the Board, the Committee and Respondent may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this stipulation and order. Respondent waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Respondent's practice, or suspension or revocation of Respondent's registration.

7. In the event the Board in its discretion does not approve this settlement, this stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor

introduced in any disciplinary action by either party hereto except that Respondent agrees that should the Board reject this stipulation and if this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this stipulation or of any records relating hereto.

8. In the event Respondent should leave Minnesota to reside or practice outside the state, Respondent shall promptly notify the Board in writing of the new location as well as the dates of departure and return. Periods of residency or practice outside of Minnesota will not apply to the reduction of any period of Respondent's suspended, limited, or conditioned registration in Minnesota unless Respondent demonstrates that practice in another state conforms completely with Respondent's Minnesota registration to practice physical therapy.

9. Respondent has been advised by Board representatives that she may choose to be represented by legal counsel in this matter and has chosen Richard I. Diamond.

10. Respondent waives any further hearings on this matter before the Board to which Respondent may be entitled by Minnesota or United States constitutions, statutes, or rules and agrees that the order to be entered pursuant to the stipulation shall be the final order herein.

11. Respondent hereby acknowledges that she has read and understands this stipulation and has voluntarily entered into the stipulation without threat or promise by the Board or any of its members, employees, or agents. This stipulation contains the entire agreement

between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this stipulation.

Dated: __5/22/00_____, 2000

Dated: __5/25/00_____, 2000

__SIGNATURE ON FILE_____
CAROL GILLIGAN, P.T.
Respondent

__SIGNATURE ON FILE_____
FOR THE COMMITTEE

* * *

ORDER

Upon consideration of this stipulation and all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the terms of this stipulation are adopted and implemented by the Board this __25__ day of __May_____, 2000.

MINNESOTA BOARD OF
PHYSICAL THERAPY

By: __SIGNATURE ON FILE_____